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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 19271/2025**

EAGLE HUNTER SOLUTIONS LTD

.....Petitioner

Through: **Mr. R.P.Sharma and Mr. Anurag
Sharma, Advocates.**

versus

RAJ KUMAR MISHRA

.....Respondent

Through: **None**

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

19.12.2025

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1. This hearing has been done through hybrid mode.
2. The present petition under Articles 226 and 227 of the Constitution of India, 1950, seeks the following prayers: -

“i. set aside/quash the order dated 25.07.2025 of the Appellate Authority & the ex-parte order dated 25.08.2022 of Ld. Trial court/ The Controlling Authority under the Payment of Gratuity Act, 1972 (Annexure A-1 & A-2 respectively of the Petition) there by declaring respondent/ Employee not entitled for any relief under law, or

ii. alternatively trial court/authority remit the case back to the concerned for deciding the same afresh after affording the Petitioner /management due opportunity to position evidence etc.

iii. Pass such order (s) as the Hon'ble Court may deem fit and proper in the facts and circumstances of case explained above in the interest of justice.”

3. The present petition challenges the impugned order dated 25.07.2025 passed by learned Appellate Authority under Payment of Gratuity Act, 1972, South-East District, whereby, appeal, AAG/SED/03/2024/3551, filed by the



petitioner against order dated 25.08.2022 passed by Controlling Authority/Labour Officer, was dismissed. *Vide* order dated 25.08.2022 learned Controlling Authority had directed the petitioner to pay the respondent gratuity of Rs.1,02,401/- along with interest of 10% per annum *w.e.f.* 18.11.2016 till the final payment is made to the respondent.

4. Respondent had filed a claim under Section 4 of the Payment of Gratuity Act, 1972, (for short, 'PGA') before learned Controlling Authority under PGA stating that he was working with the petitioner from 17.10.2001 and since, he has served the petitioner till 18.11.2016, he may be paid gratuity of Rs.1,02,833/- along with 20% interest.

5. Learned counsel for the petitioner submits that learned Controlling Authority had erred in passing the *ex-parte* order dated 25.08.2022 and not taking into account that AR of the petitioner could not appear before it on 26.05.2022 on account of his illness. He further submits that learned Controlling Authority had also not taken into consideration that the respondent had not placed on record any supportive documentary evidence to show that he was working with petitioner/management prior to 2013 and had completed five years of service. It is further submitted that during cross-examination, respondent had admitted that he had not placed on record any document to establish his claim and that he was in continuous service with the petitioner and despite this fact, learned Controlling Authority had passed the order granting him gratuity amounting to Rs.1,02,401/- along with 10% interest per annum. It is further submitted that the learned Appellate Authority had also not taken into consideration the admission made by respondent during cross-examination before the learned Controlling Authority and had passed the impugned order.



6. Heard learned counsel for the petitioner and perused the record.
7. Learned Controlling Authority *vide* order dated 25.08.2022 while allowing the claim of the respondent had observed as under: -

Whether the claimant is eligible for payment of gratuity?

If yes, what amount of relief and what directions are necessary in this respect?

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Later on AR of respondent appeared and filed an application for setting aside the ex-parte order dated 26.06.2019. The said application of the respondent was allowed subject to payment of cost of Rs.1000/- to the claimant. The respondent paid the cost of Rs. 1000/- to the claimant. In written statement the management stated that the claimant had not continued regular services of 16 years. He left service many times in between the period of 17.10.2001 to 18.11.2016 and rejoined many times but PF number remained the same. Copy of the same was provided AR of workman for filing rejoinder. The AR of claimant filed rejoinder reiterated his claim, the copy of rejoinder was supplied to the respondent AR. Since, the issues have already been framed on 26.06.2019, the proceedings were adjourned for filing of evidence.

Whereas the claimant has filed his evidence by way of an affidavit, which is exhibited as WW1/A which bears signature of the claimant at point A and B along with the documents exhibits as Ex. WW-1/1 copy of claim application, Ex. WW-1/2 PF Data (copy of joint declaration by the Member & Employer), Ex. WW-1/3 copy of employees provident fund composite claim form. A copy of the same was supplied to the AR of respondent and the proceedings were adjourned for cross examination of the claimant by the AR of respondent. On 16.03.2021, the management appeared and sought time for cross examination but the plea did not carry any merit. Therefore the opportunity for cross examination of management was closed.

On 18.03.2021 the claimant has filed his additional evidence by way of an affidavit, which is exhibited as WW1/A which bears signature of the claimant at point A and B along with the documents exhibits as Ex. WW-1/1 copy of claim application (colly 3 pages), Ex. WW-1/2 copy of joint declaration by the Member & Employer, Ex. WW-1/3 copy of claim form, Ex. WW1/4 copy of PF slip for the year 2003-2004, Ex. WW1/5, copy of PF slip for the year 2006-2007, Ex. WW1/6 copy of demand notice dated 26.04.2019, Ex. WW1/7, copy of postal receipt. Claimant also filed copy of PF passbook (computer generated).

On 19.03.2021 management representative appeared and requested for time for cross examination. The request is allowed subject to payment cost of Rs. 2000/-. The respondent paid the cost of Rs. 1000/- to the claimant. The cross examination of claimant was done on 23.03.2021. In the cross examination the claimant asserted that he joined the management on 17.10.2001 and worked with the management till 18.11.2016. his last drawn wages were Rs. 11,833/- He further stated that he never left the management on his own. The evidence of claimant was closed on request of the claimant the matter adjourned for filing of respondent evidence. Management representative appeared and requested for some time for filing evidence. Matter adjourned for respondent cross on 07.10.2021, 01.11.2021, 09.08.2021, 14.09.2021, 21.10.2021. The respondent tactfully sought opportunities pretending one or the other reason and delayed the matter intentionally. On 14.12.2021 the respondent failed to appear despite service of notice dated 10.05.2022. Therefore it was proceeded ex-parte on 26.05.2022.





Whereas, the evidence of the claimant remained un-rebutted due to non appearance of the respondent who was proceeded ex-parte on 26.05.2022 and I have no reason to disbelieve the same. 26

Whereas, the date of joining of the claimant is 17.10.2001 and date of termination is 18.11.2016. His last wages is Rs. 11,833/- per month. On examination of all the exhibits it is found that there was no pay structure and the claimant was paid minimum wages. The claimant has served the respondent for 15 years 1 Month and 1 day, as provided under Section-4 (2) his services shall be deemed to be 15 years.

Therefore, in view of above mentioned facts I have come to the conclusion and hold that Sh. Raj Kumar Mishra S/o Sh. Dev Ratan Mishra is entitled to receive a sum of **Rs. 1,02,401/- (Rupees One Lac Two Thousand Four Hundred One Only)** towards payment of Gratuity, calculated as under:

$$\text{Gratuity} = \frac{(\text{Last Basic Salary}) \times 15 \times \text{No. of Years of Service}}{26}$$

$$= \frac{11833 \times 15 \times 15}{26} = \text{Rs. 1,02,401/-}$$

26

I therefore, direct M/s Eagle Hunter Solution Limited, 61-C, Kalu Sarai, Sarvapriya Vihar, New Delhi -110016 (Respondent/Management) to pay Rs. 1,02,401/- (**Rupees One Lac Two Thousand Four Hundred One Only**) along with simple interest @10% p.a. on this amount w.e.f. 18.11.2016 to till the final payment made to the applicant, within 30 days from the issue of this order.

Given under my hand and seal on this 25th Day of Aug, 2022

Confidential Copy
Dr. O/o Dy. Labour Commissioner (South-East),
Labour Department, Govt. of N.C.T. of Delhi,
Labour Welfare Centre, Bal Mukund Khand,
Giri Nagar, Kalkaji, New Delhi-110019.

(Dr. Pushpa)
Controlling Authority
Under the Payment of Gratuity Act, 1972
District South

Dr. PUSHPA
Controlling Authority
Under, The Payment of
Gratuity Act, 1972

(emphasis supplied)

8. Learned Appellate Authority under Payment of Gratuity Act, 1972, vide order dated 25.07.2025 while dismissing the appeal filed by the petitioner against the order dated 25.08.2022 passed by the learned Controlling



Authority has observed as under: -

“7. Findings:

The claim before Controlling Authority, Gratuity was filed in April, 2019 in which the claimant has demanded a gratuity of 15 years of service from 2001 to 2016. In the WS, the management has taken the plea that the claimant was never employed for more than 05 years continuously. The claimant has filed his evidence/ additional evidence and was cross-examined by the AR of the management. The respondent was given many opportunities to lead their evidence but they did not file any evidence and after- hearing the arguments, order was passed by the then Controlling Authority on 25.08.2022. The setting aside application was filed by the management in January, 2023 which was dismissed by the then Controlling Authority in January, 2024 in the open Court. The main two grounds taken in the appeal is lack of territorial jurisdiction and non-completion of 05 years of service. It is pertinent to mention that objection of territorial jurisdiction was not taken before the Controlling Authority. The address of the Employer is of New Delhi and the claimant has worked under the control of the management in Delhi. The appellant has did not disclose before the Appellate Authority, the number of offices they are having in India and list of various branches so as to consider whether the jurisdiction rest with State Government or Central Government. Depending upon the requirement of the Principal Employer site, security guards are deployed in Delhi or NCR region, the guards have no control over the place of deployment which is entirely decided by the employer. The claimant may have worked with various Principal Employers however his immediate employer remains the same i.e. M/s Eagle Hunter Solutions Limited. As regards, setting aside application filed by the management it is observed that the same was also filed after five months of passing of the impugned order, which itself was not maintainable within the provisions of Limitation Act. Filing of setting aside application was itself delaying tactics on the part of the management. The management in his setting aside application has failed to justify by they remain absent since August, 2021 till the date of passing of the impugned order. There was no merit in the setting aside application filed by the management. The setting aside application was already dismissed in January, 2024 but the management has filed appeal in April, 2024, along with condonation delay application in which they have mentioned that the delay is due to the medical treatment of their AR Sh. B.B. Pandey and enclosed OPD treatment records of February and March, 2024. The appellant management plea that the delay is due to the medical ground of their AR is not maintainable because the medical documents pertain to pain treatment of the AR and nowhere it appears that he was on bed rest or having any serious ailment during the period, so that he could not contribute



towards finalization of the appeal. Moreover, the organization as a whole is responsible for filing an appeal and it could not be dependent on the individual person's responsibility. The appellant has not filed his documents to show that the claimant has not worked continuously for five years in one stretch since the date of his joining. This Authority does not find any of the ground taken in the appeal as sufficient for the appeal to consider. On perusal of the entire case file documents on record and the grounds of appeal taken by the Appellant, the appeal is hereby dismissed on the basis of above findings and the impugned order dated 25.08.2022 of the Controlling Authority is upheld.

8. The Appellate management i.e. M/s Eagle Hunter Solutions Limited has deposited only the principal amount of Rs.1,02,401/- while filing the appeal. After dismissal of the appeal, the management is further directed to deposit interest @ 10% p.a. w.e.f 18.11.2016 in the name of the claimant by way of Demand Draft before the Controlling Authority in compliance to the last para of order dated 25.08.2022.

9. The Controlling Authority, South-East District is hereby directed to release the principal amount of Rs.1,02,401/- at the earliest in favour of Sh. Raj Kumar Mishra in compliance of this order. Further, the interest amount upon receipt from the management M/s Eagle Hunter Solutions Limited shall also be released in favour of the claimant. The claimant is given liberty for execution of order dated 25.08.2022 by way of recovery from arrears of land revenues, in case the interest amount is not deposited by the management within the specified time. Given under my hand and seal of this 25th day of July, 2025.”

9. Perusal of the record shows that during proceedings before the learned Controlling Authority, the petitioner appeared and sought time for cross-examination on 16.03.2021. Subsequently, time was sought for cross-examination on several occasions, however, the petitioner delayed the matter and also failed to appear despite service of notice dated 10.05.2022 and in this view of the matter, learned Controlling Authority proceeded *ex-parte* on 26.05.2022.

10. After passing of the *ex-parte* order dated 25.08.2022 by learned



Controlling Authority, an application under Section 151 of the CPC was filed by the petitioner on 25.01.2023 seeking setting aside of *ex-parte* proceedings and order dated 26.05.2022 and 25.08.2022, respectively, wherein following averments were made: -

“1. That the AR for the management could not attend the date of hearing fixed for 26.05.2022 due to his illness and the Ld. Controlling authority passed the order without considering the question of law that the workman had not worked at Delhi office the Company.

2. That the workman had not worked continuously for 5 years with the management for making him legible for getting Gratuity from the management.

3. That the workman was working at Toll Bridge Noida U.P. and the jurisdiction to deal with and decide the case was with the Controlling authority (Central) and not with the Controlling Authority under the payment of Gratuity Act, appointed by the state Government.

4. That on receiving management has the notice dated 13.01.2023 the came to know about the *ex-parte* proceedings and *Ex-parte* order 25/0/8/2022 there after the management has visited the office of the Ld. Authority and despite making submissions the authority has not considered the standpoint and reply of the management dated 30.07.2019.”

11. Perusal of the aforesaid averments would show that AR for petitioner could not attend the proceeding on 26.05.2022 due to his illness, however, nothing has been placed on record to show as to what stopped the petitioner from appearing before the learned Controlling Authority prior to passing of order dated 25.08.2022 as perusal of the order dated 25.08.2022 would show that several opportunities were granted to the petitioner after 26.05.2022 and despite the same, none appeared before the authority concerned. The simple



stand taken by the petitioner was that on receiving notice on 13.01.2023, the management came to know about the passing of the aforesaid *ex-parte* order; however, nothing has been placed on record to show that diligent efforts were made on their behalf to pursue the proceedings after 26.05.2022 or 25.08.2022.

12. In view of the aforesaid facts and circumstances of the case, this Court is of the opinion that the impugned order dated 25.07.2025 passed by learned Appellate Authority as well as impugned *ex-parte* order dated 25.08.2022 passed by learned Controlling Authority under PGA does not suffer from any infirmity, illegality and perversity and thus, does not require any interference.

13. In view thereof, the present petition is dismissed and disposed of accordingly.

14. Pending applications, if any, also stand disposed of accordingly.

15. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

DECEMBER 19, 2025/bsr/ns